

*Shoreline Hearing Board
State of Washington
Certification of Board*

BEFORE THE
SHORELINES HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
CITIZENS FOR RESPONSIBLE)
COURTHOUSE SITING AND PLANNING;)
WASHINGTON VOTERS INFORMATION)
LEAGUE; JACK E. DAVIS, President)
of the BLACKHILL AUDUBON SOCIETY;)
CHARLES LINDBERG and ELEONORE B.)
PRICE,)

Appellants,)

v.)

THURSTON COUNTY COMMISSIONERS,)

Respondents.)

SHB No. 212

ORDER DISMISSING
REQUEST FOR REVIEW

This matter comes on before the Board sua sponte on jurisdictional grounds, and having considered the appellants' request for review, the facts alleged therein and the request for relief, and being fully advised, the Board finds that:

I.

The jurisdiction of this Board, is derived only from RCW 90.58.180(1) (review of the granting or denial of a permit) or RCW 90.58.180(4)

1 (appeal by local governments of master programs adopted or approved
2 by the Department of Ecology).

3 II.

4 The function of the Shorelines Hearings Board is to review
5 the action of local governments in granting, denying or rescinding
6 permits. Absent an action granting or denying a permit this Board
7 has no jurisdiction.

8 Even conceding, arguendo, that the shoreline Act requires
9 respondents to obtain a shoreline substantial development permit, this
10 Board is not the proper forum for the relief sought by appellants.
11 Enforcement of the Shoreline Management Act of 1971 is placed upon
12 the Attorney General or the attorney for local government to:

13 " . . . bring such injunctive, declaratory, or
14 other actions as are necessary to insure that
15 no uses are made of the shorelines of the state
in conflict with the provisions and programs
of this chapter, . . ." RCW 90.58.210.

16 Appellants' remedy is to request the prosecuting attorney and
17 the Attorney General to act as required by the foregoing statute. If
18 such ones fail to do so, appellants may commence an action in Superior
19 Court.

20 III.

21 Lastly, this Board has received a letter from the office of the
22 Attorney General stating that:

23 "The Department of Ecology and the Attorney
24 General can find no basis in said petition
25 to invoke the certification procedures of
RCW 90.58.180(1)."

26 We view that communication as a determination that neither agency

27 ORDER DISMISSING
REQUEST FOR REVIEW

1 will certify the request. Lacking such a certification, RCW 90.58.180(1)
2 provides that, inter alia, this Board shall not review "the matter
3 covered by the requestor" and "That the failure to obtain such
4 certification shall not preclude the requestor from obtaining a
5 review in the Superior Court under any right to review otherwise
6 available to the requestor."

7 IV.

8 Therefore, IT IS ORDERED that the Request for Review be and it
9 is dismissed.

10 DATED this 17th day of March, 1976.

11 SHORELINES HEARINGS BOARD

12 Chris Smith
13 CHRIS SMITH, Chairman

14 W. A. Gissberg
15 W. A. GISSBERG, Member

16 Walt Woodward
17 WALT WOODWARD, Member

18 Robert E. Beaty
19 ROBERT E. BEATY, Member

20 Robert F. Hintz
21 ROBERT F. HINTZ, Member

22 R. A. Beswick
23 RALPH A. BESWICK, Member

24
25
26 ORDER DISMISSING
27 REQUEST FOR REVIEW

CERTIFICATION OF MAILING

I, Dolories Osland, certify that I deposited in the United States mail, copies of the foregoing document on the 17th day of March, 1976, to each of the following-named parties, at the last known post office addresses, with the proper postage affixed to the respective envelopes:

Mr. Charles Lindberg, Director
Ms. Eleonore B. Price, Director
Citizens for Responsible Courthouse
Siting and Planning
P. O. Box Drawer E
Lacey, Washington 98503

Mr. Jack E. Davis, President
Blackhill Audubon Society
Rt. 4, Box 202-C
Olympia, Washington 98502

Mr. Bertram C. Nelson, President
Washington Voters Information League
P. O. Box 276
Milton, Washington 98354

Thurston County Commissioners
Thurston County Courthouse
11th and Capitol Way
Olympia, Washington 98501

Mr. Patrick Sutherland
Thurston County Prosecutor
Thurston County Courthouse
11th and Capitol Way
Olympia, Washington 98501

Dolories Osland

DOLORIES OSLAND, Clerk of the
SHORELINES HEARINGS BOARD

ORDER DISMISSING
REQUEST FOR REVIEW

BEFORE THE
SHORELINES HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF THE PETITION OF CITIZENS)
FOR RESPONSIBLE COURTHOUSE SITING AND) SHB No. 212-A
PLANNING; WASHINGTON VOTERS INFORMATION)
LEAGUE; JACK E. DAVIS, President of the) ORDER ON PETITION FOR
BLACK HILL AUDUBON SOCIETY; CHARLES) DECLARATORY RULING
LINDBERG, and ELEONORE B. PRICE,) AND DISMISSAL
Petitioners.)


THIS MATTER, the Petition for Binding Declaratory Ruling filed on
March 8, 1976, having come before the entire Board on Motion of
Petitioners, and the Board having considered the Petition and, pursuant
to WAC 461-08-255(3)(b), having determined that no declaratory ruling
is to be issued, and it then appearing that this matter should be
dismissed, NOW THEREFORE


IT IS ORDERED that this matter should and the same is hereby

1 dismissed.

2 DATED this 17th day of March, 1976.

3 SHORELINES HEARINGS BOARD

4 
5 CHRIS SMITH, Chairman

6 
7 ROBERT E. BEATY, Member

8 
9 RALPH A. BESWICK, Member

10 
11 ROBERT F. HINTZ, Member

12 
13 W. A. GISSBERG, Member

14 (See concurring statement,
15 next page)
16 WALT WOODWARD, Member

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26 ORDER ON PETITION FOR
27 DECLARATORY RULING
AND DISMISSAL

1 WOODWARD, concurring

2 Believing we should state our reasoning for a decision, I attach
3 herewith my rationale.

4 RCW 34.04.080 states that an agency may issue a declaratory ruling
5 pertaining to a "statute enforceable by it." But none of the eight
6 items of relief sought by Petitioners, in my opinion, are enforceable
7 solely by this Board.

8 To the contrary, the Shoreline Management Act, which created this
9 Board and defined its legal capacities, says, in RCW 90.58.210, that
10 the attorney general or the attorney for local government shall
11 bring necessary "declaratory" actions. I take this to mean that this
12 Board does not have that authority.

13 I, therefore, believe that this Board cannot issue a Binding
14 Declaratory Ruling in matters of this kind. I concur in the majority
15 opinion.

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18 WALT WOODWARD, Member

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27 DECLARATORY RULING
AND DISMISSAL

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Route 4, Box 202-C
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Mr. Charles Lindberg
1631 Miller Avenue
Olympia, Washington 98506

Mrs. Eleonore B. Price
921 West 5th Avenue
Olympia, Washington 98502

Board of County Commissioners
of Thurston County
Thurston County Courthouse
Olympia, Washington 98501

Mr. Patrick Sutherland
Thurston County Prosecuting Attorney
Thurston County Courthouse
Olympia, Washington 98501

Dolores Osland
DOLORIES OSLAND, Clerk of the
SHORELINES HEARINGS BOARD

ORDER ON PETITION FOR
DECLARATORY RULING
AND DISMISSAL